

REMARKS

The applicant respectfully requests reconsideration in view of the following remarks. The applicant has incorporated claim 11, into claim 1. Support for newly added claim 31 can be found in claim 23. No new matter has been added. The applicant has added one claim (claim 31) and cancelled one claim (claim 11). No fee is required for the extra claim.

The Examiner has withdrawn all the previous rejections. Claims 1, 4-6 and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by US 2003/0198831 (Oshiyama). Claims 22-26 and 28-30 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,840,217 (Lupo). Claims 3, 14 and 18-20 are rejected under 35 U.S.C. 103(a) as being obvious over Oshiyama. Claims 7-12 and 21 are rejected under 35 U.S.C. 103(a) as being obvious over Oshiyama in view of Lupo. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oshiyama in view of Lupo and further in view of "Applied Physics Letters, 2002, vol. 81, no. 4, p. 577-579" (Wu). The applicant respectfully traverses these rejections.

Rejection of Claims 1, 4-6 and 15-17

Claims 1, 4-6 and 15-17 are rejected as being anticipated by Oshiyama. In order to expedite prosecution, the applicant has incorporated claim 11 into independent claim 1. As the Examiner has recognized, claim 11 was not anticipated by Oshiyama. For the above reasons, this rejection should be withdrawn.

Rejection of Claim 22-26 and 28-30

Claims 22-26 and 28-30 are rejected as being anticipated by Lupo. Lupo discloses spirobifluorene derivatives of a very general formula (formula III), which can be substituted by a great variety of different groups. The applicant's invention is a selection invention over Lupo. The Examiner has suggested that Lupo anticipates the applicant's claimed

invention. However, the Examiner is required to do numerous selections within side the definitions to arrive at the applicant's claimed invention. Specifically, the Examiner has limited the symbols and indices: $n = 0$ and $m = 1$ and $X = N$ and $Y = N$ and $Z = CH=N$. This means that in total five symbols and indices have to be selected in a very specific manner to result in a substituent, which is a 1,2,4-triazine. The Examiner will note at cols. 12 and 13, Lupo discloses specific substitutes for the spirobifluorene derivatives. Not one of the substituents contains three nitrogens, let alone, not one of the substituents is a triazine. The Examiner will note that not one of the 106 spiro examples in Table 1 at columns 13 and 14, contain 3 nitrogens let alone a triazine as is required by the applicant's claimed invention. The Examiner will further note at cols. 16 and 17, Lupo discloses specific substitutes for the spirobifluorene derivatives. Not one of the substituents contains three nitrogens, let alone, not one of the substituents is a triazine. The Examiner will note that not one of the spiro examples in Table 2-5 (spiro 107-spiro 530) at columns 17 through 23, contain 3 nitrogens let alone a triazine as is required by the applicant's claimed invention. Out of the **530 examples**, there are no examples in Lupo that have the substituent as a triazine. The only groups, which are explicitly disclosed by Lupo are phenyl groups or five- membered heteroaromatic groups, such as oxazoles, but not even six-membered heteroaromatic groups in general are explicitly disclosed and in particular no six- membered heteroaromatic groups having two or three nitrogen atoms in the ring. Clearly, these claims are not anticipated by Lupo. For the above reasons, this rejection should be withdrawn.

Rejection of Claims 3, 14 and 18-20

Claims 3, 14 and 18-20 are rejected under 35 U.S.C. 103(a) as being obvious over Oshiyama. Again, the applicant has incorporated claim 11, into independent claim 1. As the

Examiner has recognized, claim 11 was not obvious over Oshiyama. For the above reasons, this rejection should be withdrawn.

Rejection of Claims 7-12, 13 and 21

Claims 7-12 and 21 are rejected under 35 U.S.C. 103(a) as being obvious over Oshiyama in view of Lupo. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oshiyama in view of Lupo and further in view of Wu. Oshiyama discloses an organic electroluminescent device wherein the hole blocking layer comprises a pyrimidine or a triazine derivative. Oshiyama does not disclose that the pyrimidine or triazine derivative is a 9,9'-spirobifluorene derivative, a 9,9'-disubstituted fluorene derivative, a 6,6- and/or 12,12-di- or tetrasubstituted indenofluorene derivative, a tetraarylmethane derivative or a triptycene derivative as is required by the applicant's claim 1 (previously claimed 11). However, this material is particularly efficient for blocking holes in a phosphorescent organic electroluminescent device. Oshiyama does not disclose any substituents on the triazine or pyrimidine, which are particularly suitable for the use in a hole blocking layer of an OLED.

Furthermore, also a combination of Oshiyama and Lupo would not lead the person of ordinary skill in the art to the invention for the same reasons as discussed above with respect to the novelty over Lupo. A total of five symbols and indices have to be selected in a very specific manner in Lupo to result in a substituent, which is a 1,2,4-triazine or a pyrimidine. As stated above, this application is a selection invention over Lupo.

A statement that modifications of the prior art to meet the claimed invention would have been "obvious to one of ordinary skill in the art at the time the invention was made" because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd.

Pat. App. & Inter. 1993). See MPEP § 2143.01 IV. “[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007) quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Furthermore, the Examiner cannot selectively pick and choose from the disclosed parameters without proper motivation as to a particular selection. The mere fact that a reference may be modified to reflect features of the claimed invention does not make the modification, and hence the claimed invention, obvious unless the prior art suggested the desirability of such modification. *In re Mills*, 916 F.2d 680, 682, 16 USPQ2d 1430 (Fed. Cir. 1990); *In re Fritch*, 23 USPQ2d 1780 (Fed. Cir. 1992). Thus, it is impermissible to simply engage in a hindsight reconstruction of the claimed invention where the reference itself provides no teaching as to why the applicant’s combination would have been obvious. *In re Gorman*, 933 F.2d 982, 987, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991).

The combination of Oshiyama with Lupo would therefore only be possible with a retrospective view having knowledge of the present invention and the person skilled in the art would have no motivation whatsoever to combine the disclosure of Oshiyama with the disclosure of Lupo. For the above reasons, these rejections should be withdrawn.

It is noted that newly added claim 31 is further removed from Lupo since it requires that the triazine is 1,3,5-triazine.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no additional fee is due with this response besides the extra claim over twenty being added. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 14113-00012-US from which the undersigned is authorized to draw.

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Respectfully submitted,

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